

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ROBERTA SHANK and BILL
SHANK d/b/a CHIEF'S
JANITORIAL,

Plaintiffs,

vs.

ALLEN HORAK, DEPARTMENT
OF ROADS, DISTRICT 4
OPERATIONS AND
MAINTENANCE MANAGER,
Individually,

Defendant.

4:06CV3253

**MEMORANDUM
AND ORDER**

Defendant has filed a Motion to Strike and/or Make More Definite and Certain (filing 9) and a Motion to Dismiss Under 12(b)(1) & 12(b)(6) (filing 10), neither of which were supported by a brief. Both motions raise issues under the Eleventh Amendment and 42 U.S.C. § 1983.

NECivR 7.1(a)(1)(A) requires that all motions “raising a substantial issue of law must be supported by a paginated brief filed and served contemporaneously with the motion. The brief shall state concisely the reasons for the motion and cite the authorities relied upon.” The court “may treat a party’s failure to file a brief as an abandonment of the motion.” NECivR 7.1(a)(1)(B). Because Defendant’s counsel failed to file briefs in support of Defendant’s motions to strike and to dismiss, and because such motions raise substantial issues of law, I shall consider the motions abandoned, and I shall deny the motions pursuant to NECivR 7.1(a)(1).

IT IS ORDERED that the Motion to Strike and/or Make More Definite and Certain (filing 9) and the Motion to Dismiss Under 12(b)(1) & 12(b)(6) (filing 10)

filed by Defendant are considered abandoned and are denied for failure to file briefs in support of such motions, contrary to NECivR 7.1(a)(1).

January 22, 2007.

BY THE COURT:

s/ Richard G. Kopf

United States District Judge